

REMARKS

A. INTRODUCTION

Claims 1 and 81-101 are pending and rejected.

A fully responsive Reply in accordance with 37 C.F.R. §§1.111(b) was filed on April 12, 2010, with a request for continued examination.

Applicants request entry of this Supplemental Reply with amendment under 37 C.F.R. §1.111(a)(2). This Supplemental Reply is clearly limited to one or more of: adoption of examiner suggestion(s), placement of the application in condition for allowance, correction of informalities and /or simplification of issues for appeal.

Upon entry of this Amendment:

- Claims 1 and 81- 101 will be pending
- Claims 1, 81 and 82 will be amended
- Claims 1, 81 and 82 will be the only independent claims

B. TELEPHONE INTERVIEW

Applicants are grateful to the Examiner for his courtesy in conducting a telephone conversation on August 3, 2010, with Applicants' representative. The Examiner discussed pending Claim 1 in light of the U.S. Supreme Court's decision in *Bilski v. Kappos*. The Examiner also suggested the possibility of an obviousness-type double patenting rejection in light of Walker Digital U.S. Patent Nos. 7,729,988 and 7,376,580. Although no formal agreement was reached, Applicants are grateful for the opportunity to discuss the prosecution status of the present Application with the Examiner.

C. TERMINAL DISCLAIMER

During a telephone conversation with Examiner Nguyen on August 3, 2010, the Examiner suggested that Applicants file a terminal disclaimer in the present Application with respect to Walker Digital U.S. Patent Nos. 7,729,988 and 7,376,580 in order to avoid any potential obviousness-type double patenting rejection(s) in the present Application.

Applicants do not necessarily agree or disagree with the propriety of the potential obviousness-type double patenting rejection suggested as a possible concern by the Examiner. Further, a prima facie case for rejection on such grounds has not been made formally of record, and Applicants have not been apprised of all of the findings required to establish such a rejection.

Nonetheless, Applicants are filing the requested terminal disclaimer in order to render moot the potential of an obviousness-type double patenting rejection based on the specified patents and to expedite allowance of the present Application, as suggested by the Examiner.

The filing of the terminal disclaimer is not an admission of obviousness of the claimed invention in light of the specified patents, for that is not the basis of the disclaimer. The filing of the terminal disclaimer simply serves the statutory function of removing the “concerns” of rejection for double patenting, and raises neither presumption nor estoppel on the merits of the suggested rejection. See Quad Environmental Tech Corp. v. Union Sanitary Dist., 946 F.2d 870 (Fed. Cir. 1991); MPEP § 804.02(II).

D. CLAIM AMENDMENTS

Although Applicants do not necessarily believe such changes are necessary for any reason related to patentability, independent Claim 1 has been amended (1) to recite receiving an indication of acceptance by the customer of the offer and (2) to recite selling to the customer at a second price the at least one item selected for purchase after the offer is accepted, the second price being less than the associated total price. No new matter has been added.

Although Applicants do not necessarily believe such changes are necessary for any reason related to patentability, each of Claims 81 and 82 has been amended to recite desirable embodiments providing for:

determining, from the input, ~~a response to~~ an acceptance of the offer for the subsidy; and

selling, during the transaction, the item for a second price ~~only if the response indicates that~~ after the offer is accepted,

in which the second price is less than the associated price of the item.

No new matter has been added.

Applicants respectfully submit that all of the pending claims are in condition for allowance and request entry of this Supplemental Reply and its accompanying amendment.

E. PETITION FOR EXTENSION OF TIME TO RESPOND & AUTHORIZATION TO CHARGE APPROPRIATE FEES

Applicants do not believe that any fees are necessary for this Supplemental Reply.

Please grant a petition for any extension of time required to make this Response timely. Please also charge any other appropriate fees set forth in 37 C.F.R. §§ 1.16 – 1.18 for this paper and for any accompanying papers to:

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F. CONCLUSION

It is submitted that all of the claims are in condition for allowance. The Examiner's consideration is respectfully requested.

If the Examiner has any questions regarding this paper or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 438-6408 or via electronic mail at mdowns@finchamdowns.com.

Respectfully submitted,

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Date

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